

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Roosevelt Henegan, Jr.,)	
)	C.A. No. 4:10-cv-00893-JMC
Plaintiff,)	
)	
v.)	ORDER
)	
)	
Town of Kingstree, Ricky Burrows,)	
Andrea R. Kelly, Richard B. Josey,)	
and Robert McKenzie, in their individual)	
capacities,)	
)	
)	
Defendants.)	
)	

Plaintiff Roosevelt Henegan, Jr. filed this action alleging Defendants discriminated against him because of his race in violation of Title VII of the Civil Rights Act of 1964 (Title VII), 42 U.S.C. § 2000(e) *et seq.*, 42 U.S.C. § 1981, and 42 U.S.C. § 1983. He also alleged violations of his due process rights and asserted a state law claim for civil conspiracy against Defendants Ricky Burrows and Andrea R. Kelly. Defendants Ricky Burrows and Andrea R. Kelly filed a Motion for Partial Judgment on the Pleadings [Entry # 12] as to Plaintiff's third cause of action for civil conspiracy. In Response, Plaintiff filed his Consent Motion to Dismiss [Entry # 15] the third cause of action for civil conspiracy. The Magistrate Judge's Report and Recommendation [Entry #18], filed on September 17, 2010, recommended that Plaintiff's motion to dismiss be granted and Defendants Burrows and Kelley's motion be deemed moot. The Report and Recommendation sets forth the relevant facts and legal standards on this matter, and the court incorporates the Magistrate Judge's recommendation without a recitation.

The Magistrate Judge's Report and Recommendation is made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objections are made, and the court may accept, reject, or modify, in whole or in part, the Magistrate Judge's recommendation or recommit the matter with instructions. *See* 28 U.S.C. § 636(b)(1).

Each party was advised of their respective right to file objections to the Report and Recommendation [Entry #18, Attachment 1]. However, no one filed objections to the Report and Recommendation.

In the absence of objections to the Magistrate Judge's Report and Recommendation, this court is not required to provide an explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, "in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must 'only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'" *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee's note). Furthermore, failure to file specific written objections to the Report and Recommendation results in a party's waiver of the right to appeal from the judgment of the district court based upon such recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).

After a thorough review of the Report and Recommendation and the record in this case, the court adopts the Magistrate Judge's Report and Recommendation and incorporates it herein.

It is therefore **ORDERED** that Plaintiff's Consent Motion to Dismiss [Entry #15] is granted and that the third cause of action for civil conspiracy against Defendants Ricky Burrows and Andrea R. Kelly is dismissed with prejudice. It is further **ORDERED** that Defendant's Motion for Partial Judgment on the Pleadings [Entry # 12] is deemed moot.

IT IS SO ORDERED.

s/ J. Michelle Childs
United States District Judge

Greenville, South Carolina
October 8, 2010